

to the notice within ten calendar days after receipt” and of “the right to a hearing in accordance with § 3560.160 which is available upon request.” When an applicant is rejected based on the information from a credit bureau report, the source of the credit bureau report must be revealed to the applicant in accordance with the Fair Credit Reporting Act.

(i) *Purging waiting list.* Procedures used by borrowers to purge waiting list must be documented in the project’s management plan and must be based on the length of the waiting list or the extent of time an applicant will be expected to wait for housing. At a minimum, borrowers must document removal of any names from the waiting list with the time and date of the removal. If an electronic waiting list is used, borrowers must periodically print out electronic waiting lists or preserve backup copies showing how the waiting list appeared before and after the removal of each name.

(j) *Criminal activity.* Borrowers may deny admission for criminal activity or alcohol abuse by household members in accordance with the provisions of 24 CFR 5.854, 5.855, 5.856, and 5.857.

EFFECTIVE DATE NOTE: At 70 FR 8503, Feb. 22, 2005, in § 3560.154(a)(7), implementation of the words “\* \* \* and a certification that the applicant is a U.S. citizen or a qualified alien as defined in § 3560.11 \* \* \*” was delayed indefinitely.

**§ 3560.155 Assignment of rental units and occupancy policies.**

(a) *General.* Available rental units are assigned in accordance with the requirements of this section and the priorities and preferences outlined in § 3560.154.

(b) *Rental units accessible to individuals with disabilities.* If a rental unit accessible to individuals with disabilities is available and there are no applicants that require the features of the unit, borrowers may rent the unit to a non-disabled tenant subject to the inclusion of a lease provision that requires the tenant to vacate the unit within 30 days of notification from management that an eligible individual with disabilities requires the unit and provided the accessible unit has been marketed as an accessible unit, outreach has been

made to organizations representing the disabled, and marketing of the unit as an accessible unit continues after it has been rented to a tenant who is not in need of the special design features.

(c) *Transfer of existing tenants within a housing project.* When a rental unit becomes available for occupancy and an eligible tenant in the housing project is either over housed or under housed as provided for in paragraph (e) of this section, the borrower must use the available unit for the over housed or under housed tenant, if suitable, prior to selecting an eligible applicant from the waiting list.

(d) *Applicant placement.* When a specific rental unit type becomes available for occupancy, borrowers must select eligible applicants suitable for the available unit according to the priorities established in § 3560.154.

(e) *Occupancy policies.* Borrowers must establish occupancy policies for each housing project. Households living in a rental unit with more bedrooms than persons in the household will be considered over housed and must be relocated in accordance with paragraph (c) of this section. Households under housed as defined by the project’s occupancy standards must be relocated in accordance with paragraph (c) of this section. Borrowers with no one-bedroom units in a housing project may make an exception to this requirement in their occupancy policies. In addition, a borrower’s occupancy policies must establish:

(1) Reasonable standards for determining when a tenant household is considered under housed. The standards will describe the maximum number of persons that may occupy units of a given size based on occupancy guidelines provided by the Agency or another governmental source;

(2) The order in which eligible applicants and existing tenants will be housed or re-housed; and

(3) How fair housing requirements will be met, including how reasonable accommodations will be made for applicants and tenants with disabilities.

(f) *Agency concurrence.* The Agency must concur with a borrower’s occupancy rules prior to initial occupancy

of the housing project. All modifications to occupancy rules must be posted for tenant comment in accordance with § 3560.160 and receive Agency concurrence prior to implementation.

**§ 3560.156 Lease requirements.**

(a) *Agency approval.* Borrowers must use a lease approved by the Agency. The lease must be consistent with Agency requirements and the requirements of all programs participating in the housing project. Prior to submitting the lease to the Agency for approval, borrowers must have their attorney certify that the lease complies with state and local laws, Agency requirements, and the requirements of all programs participating in the housing project. If there are conflicting requirements the borrower shall notify the Agency of the conflict and request guidance. Borrowers must execute their Agency approved lease with each tenant household prior to tenant occupancy of a rental unit.

(b) *Lease requirements.* (1) All leases must be in writing.

(2) Initial leases must be for a 1-year period.

(3) If the tenant is not subject to occupancy termination according to § 3560.158 and § 3560.159, a renewal lease or lease extension must be for a 1-year period.

(4) In areas with a concentration of non-English speaking populations, leases (including the occupancy rules) must be available in both English and the non-English language.

(5) Leases must give the address of the management agent to which tenants may direct complaints.

(6) Leases must include a statement of the terms and conditions for modifying the lease.

(c) *Required items and provisions.* (1) Leases for tenants who hold a Letter of Priority Entitlement (LOPE) issued according to § 3560.655(d) and are temporarily occupying a unit for which they are not eligible must include a clause establishing the tenant's responsibility to move when a suitable unit becomes available in the housing project.

(2) Leases must contain a clause permitting escalation in the tenant contribution when there is an Agency-approved change in basic or note rate

rents prior to the expiration of the lease. The escalation clause also must specify that the tenant contribution may be changed prior to expiration of the lease if the change is due to changes in tenant status, as documented on the tenant certification form, or the tenant's failure to properly recertify.

(3) Leases must specify that no change in the tenant contribution will occur due to monetary or non-monetary default or when rental assistance or interest credit, is suspended, canceled, or terminated due to the borrower's fault. For information on tenant contributions when a borrower pre-pays the Agency loan, refer to subpart N of this part.

(4) Leases must contain a requirement that tenants make restitution when unauthorized assistance is received due to applicant or tenant fraud or misrepresentation and a statement advising tenants that submission of false information could result in legal action.

(5) Leases must include a statement that the housing project is financed by the Agency and that the Agency has the right to further verify information provided by the applicant.

(6) Leases must state that the housing project is subject to:

(i) Title VI of the Civil Rights Act of 1964;

(ii) Title VIII of the Fair Housing Act;

(iii) Section 504 of the Rehabilitation Act of 1973; and

(iv) The Age Discrimination Act of 1975.

(7) Leases must establish the tenant's responsibility according to the housing project's occupancy rules to move to the next available appropriately sized rental unit if the household becomes over housed or under housed in the unit they occupy.

(8) Leases must include provisions that establish when a guest will be considered a member of the household and be required to be added to the tenant certification.

(9) Leases must include a provision stating that tenancy continues until the tenant's possessions are removed from the housing either voluntarily or